

## Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

### ***I. Declaration***

A declaration under 37 C.F.R. §1.131 is being submitted with this response. The declaration establishes a date of invention at least as early as June 17, 2003, which is prior to the filing date of *Nixon et al.* (U.S. Pat. Pub. 2004/0259533 - filing date of June 18, 2003). Accordingly, *Nixon et al.* does not qualify as prior art for the instant application.

Applicants note that similar declarations were previously filed in response to the previous final Office Actions. The previously submitted declarations, however, were not considered by the Examiner because they allegedly raised new issues.

Further, a petition to the Director was filed in which it was requested that the Director have the declaration considered. However, a decision on this petition has not yet been received. In view of the fact that the petition does not stay the time period for reply, an RCE is being filed to have the declaration considered.

### ***II. Claim Rejections - 35 USC § 103***

Claims 1-3, 7-10, 14-6, 18-20 and 23-31 stand rejected under 35 USC §103(a) as being unpatentable over *Nixon et al.* in view of *Findikli et al.* (U.S. Pat No. 6,529,727). Claims 4-6, 11-13 and 21-22 stand rejected under 35 USC §103(a) as being unpatentable over *Nixon et al.* in view of *Findikli et al.* in further view of *Rosenberg et al.* (U.S. Pat No. 6,628,934). Claim 17 stands rejected under 35 USC §103(a) as being unpatentable over *Nixon et al.* in view of *Findikli et al.* in further view of *Natsumo* (U.S. Pat. Pub. 2005/0148367). Withdrawal of the rejections is respectfully requested for at least the following reasons.

As noted above, *Nixon et al.*, which is the primary reference relied upon to reject the claims of the present application, does not qualify as prior art. Thus, the Examiner has not established a *prima facie* case of obviousness.

Accordingly, withdrawal of the rejection of claims 1-31 is respectfully requested.

### III. Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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